UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/SP/51
14 January 1994

ORIGINAL: ENGLISH

MEETINGS OF THE STATES PARTIES
Fifteenth meeting

NOTE VERBALE DATED 14 JANUARY 1994 FROM THE PERMANENT MISSION OF THE REPUBLIC OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Republic of Croatia to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to request that the enclosed aide mémoire be distributed to the delegations of the States Parties at the Fifteenth meeting of the States Parties to the Convention on the Elimination of All Forms of Racial Discrimination, as an official document.

The Permanent Mission of the Republic of Croatia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

AIDE MEMOIRE

The delegation of an entity calling itself the "Federal Republic of Yugoslavia" has recently sought to participate in the deliberations of the fifteenth meeting of the States Parties to the International Convention on the Elimination of all Forms of Racial Discrimination as the representative of "Yugoslavia".

The Republic of Croatia objects to the participation of the above-mentioned delegation because it cannot be considered a state party to the said Convention.

According to the opinion of the Badinter Commission, established under the auspices of the Conference on the Former Yugoslavia to deal with the legal questions relating to the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY), the SFRY ceased to exist as a result of dissolution, and its constituent units became international legal subjects. This was further confirmed in Security Council resolution 777 (1992) which stated that "the state formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist".

Furthermore, according to the said Commission, since there was no agreement among the successor states of the SFRY as to the succession of the rights and obligations of the SFRY, the general rules of international law - which deal with succession of states in regards to treaties, possessions, debt and archives - should be applied. The result of this, in the opinion of the Commission, is that no single successor state can consider itself as the sole successor of the Socialist Federal Republic of Yugoslavia.

All the successor states of the former SFRY, except the so-called "Federal Republic of Yugoslavia" (Serbia and Montenegro), conducted themselves according to the rules of international law and - in the framework of the UN - notified the Secretary General, in his capacity as depository of international treaties, of their intention to be considered, in respect of their respective territories, a party, by virtue of succession of the Socialist Federal Republic of Yugoslavia to various treaties; and sought acceptance to membership in international organizations in accordance with the rules of such organizations.

However, the so-called "Federal Republic of Yugoslavia" (Serbia and Montenegro) has not acted according to international rules and decisions but has *mala fidae* ignored them and tried to participate in international forums as a state party and/or as a member of the international organization with the intention to create a precedent by which it would later seek to prove that it is the sole legitimate successor of the former SFRY.

The so-called "Federal Republic of Yugoslavia", which consists of the former Yugoslav republics of Serbia and Montenegro, claims that it is the sole and automatic successor of the SFRY to international treaties and organizations. This claim is not accepted in the international community because no such agreement was reached by the successor states of the SFRY.

In this regard, reference is to be made to Security Council resolution 777 (1992) and General Assembly resolution 47/1 which considered "that Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations". The Badinter Commission concluded that this decision applies also to membership in international treaties and other international organizations.

Since the so-called "Federal Republic of Yugoslavia" (Serbia and Montenegro) has not notified the Secretary General of its succession to the International Convention on the Elimination of all Forms of Racial Discrimination as one of the successor states of the former SFRY, it cannot be considered as one of the parties to the said convention. Therefore, as a non-party, the said delegation has no right to participate at the fifteenth meeting of the States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination.

The delegation of the so-called "Federal Republic of Yugoslavia" (Serbia and Montenegro) should, therefore, not be allowed to attend the said meeting and the name plaque of "Yugoslavia" should be removed.